

App. No. 09/937,942
Reply to Office Action of July 26, 2004

REMARKS/ARGUMENTS

Claims 1-2, 4-5, and 7. Claims 3 and 11 have been canceled. The following issues are outstanding in the Final Office Action mailed May 26, 2005:

1. Claims 1 and 7 were rejected under 35 U.S.C. 103(a) as being anticipated by Argenta et al., WO 94/20041 ("Argenta et al.") in view of Collyer et al., U.S. Patent No. 5,973,221 ("Collyer et al.");
2. Claims 2-5 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Argenta et al. in view of Collyer et al., U.S. Patent No. 5,973,221 ("Collyer et al.") and further in view of Gibbins, U.S. Patent No. 6,355,858 ("Gibbins"); and
3. The Examiner made no recitation as to why claims 8 and 10 were rejected. Applicant respectfully requests clarification as to the grounds on which claims 8 and 10 were rejected in the Final Office Action of May 26, 2005.

Each of these will be addressed in turn.

App. No. 09/937,942
Reply to Office Action of July 26, 2004

1. Rejection of Claims 1 and 7 under 35 U.S.C. 103(a)

In this rejection, the Examiner stated that Argenta et al. teach a method for wound treatment comprising reepithelializing a wound surface with a negative pressure system comprising of a porous pad, a tube with first end in fluid communication with the pad, a second end connected to a vacuum, and a wound drape. The Examiner noted Argenta et al. fail to teach a porous pad predisposed with a wound healing factor. The Examiner stated pre-medicated dressings are well known in the art, and cited Collyer et al. for teaching a porous pad that can be impregnated with antiseptic and/or other medicament. This rejection is respectfully traversed.

Claim 1 has been amended to identify the connection between the wound healing factors and the negative pressure system as grafting, which was previously identified in now-canceled claims 3 and 11. Although the Examiner, with respect to claims 3 and 11 identified "Gibbins teach *incorporating* basic fibroblast growth factor and an antimicrobial agent such as streptomycin (col. 6, line 49 – col. 7, line 14) as one of many active ingredients that can be incorporated *or grafted* onto a dressing" (Emphasis added by Applicant), Applicant respectfully disagrees with this statement. In particular, Applicant is unable to find any one location throughout the specification or claims or drawings of Gibbins that teach *grafting* wound healing factors into a negative pressure system.

In fact, Gibbins teaches, discloses and utilizes *incorporating* active agents directly into the matrix of the wound dressing devices to allow for *release* of the agents for delivery to the wound bed. *See, for example*, col. 4, lines 17-19; col. 6, lines, 22-24; col. 6, lines 49-51; col. 7, lines 3-5, lines 15-21, lines 35-44, lines 48-49, and many other places throughout the specification. *Grafting*, on the other hand, is a process in which the additive agent is bound to

App. No. 09/937,942
Reply to Office Action of July 26, 2004

the surface of the carrier material. For the Examiner's reference, Applicant includes a copy of "Thin Films, Grafts, and Coatings", Chapter 2.9 in *Biomaterials Science* Ed. by Ratner, Hoffman, Schoen, and Lemons; Academic Press : San Diego; 1996.

There is a reason for this distinguishing feature of Gibbins. Gibbins is teaching *controlled release* of the active agents by *releasing* the active agents at the site of the wound, such that after a certain amount of time, the agents will no longer be present in the matrix. Such a teaching by Gibbins of mere *incorporation* to utilize *controlled release* of the agent would not function in a negative pressure environment as claimed in claim 1. Because the wound healing factor would be *released* from the incorporated foam of Gibbins, it would necessarily be removed from the wound surface via the negative pressure, and therefore *fail to heal the wound*.

Neither Argenta et al. nor Collyer et al. identify this distinction, much less offer an appreciation of the bonding technique necessary to effectively utilize negative pressure wound therapy. And combining these references with Gibbins would likewise fail, since Gibbins necessarily releases its agents, probably even more so under negative pressure than under ambient pressure.

As a result, the claims as amended are submitted to be non-obvious in view of Gibbins, Argenta et al. and Collyer et al., and in condition for allowance.

2. Rejection of Claims 2-5 and 11 Under 35 U.S.C. 103(a)

Dependent claims 2, 4 and 5 are submitted to be in condition for allowance at least for the same reasons as identified and explained above. Namely, neither Gibbins alone, nor Gibbins in combination with Argenta et al. nor Collyer et al. teach, motivate or otherwise disclose the a

App. No. 09/937,942
Reply to Office Action of July 26, 2004

grafted wound healing factor into a negative pressure system for reepithelializing a wound surface. Accordingly, these claims are submitted to be in condition for allowance.

3. Remaining Claims

The remaining dependent claims are submitted to be allowable over the art made of record for the same reasons as identified in Section 1, above.

App. No. 09/937,942
Reply to Office Action of July 26, 2004

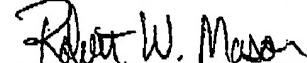
SUMMARY

Believing it has addressed all matters raised by the Examiner's May 26, 2005 Final Office Action, Applicants respectfully request timely action on the merits. No fees are believed to be required for the amendment. Nevertheless, the Commissioner is permitted to deduct or credit any fees that may be required from Kinetic Concept Inc. Deposit Account No. 500-326.

If upon consideration of the above, the Examiner should feel that outstanding issues remain in the present application that could be resolved, the Examiner is invited to contact the undersigned at the telephone number indicated to discuss resolution of such issues.

Applicants respectfully request favorable consideration.

Respectfully submitted,



Robert W. Mason
Reg. No. 42,848
Attorney for the Applicant

KINETIC CONCEPTS, INC.
P.O. Box 659508
San Antonio, Texas 78265-9508
TEL: (210) 255-6271
FAX: (210) 255-6969